

II. REMARKS

Preliminary Remarks

Upon entry of this Amendment, claims 1, 3, 16, 22, 23, and 27, 28, and 30-32 will be pending of which claims 1, 16, 22, 23, and 30 are independent. Claims 1, 3, and 27-32 are amended, claim 29 is canceled. Support for the claim amendments can be found in the specification as filed (see, for example, page 5, lines 25-29, page 7, lines 22-25). Therefore, the applicants believe that no new matter is added as a result of these amendments.

The applicants would like to thank the examiner for the indication of allowable subject matter in claims 16, 22, and 23.

Claims 1, 16, 29, and 30 were objected to for minor typographical errors. Claim 29 is canceled and the objection to claims 1, 16, and 30 is moot in view of the amendments to these claims. Therefore, the applicants respectfully request withdrawal of this objection.

Enclosed herewith is a petition for an extension of time to file in the second month and the requisite fee.

Patentability Remarks

Rejections under 35 U.S.C. §112, second paragraph –

Claims 1, 3, 27-32 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. Claim 29 is canceled and the rejection of claims 1, 3, 27, 28, and 30-32 is rendered moot in view of the amendments to the claims as follows:

- In claim 1, the term “synthase activity above the level of a wild type *Corynebacterium glutamicum*” is allegedly unclear. Following the suggestion of the examiner, this term is amended to “synthase activity above the level of that found in a wild type *Corynebacterium glutamicum*”;
- In claim 3 the term “overexpression of said LysE gene is achieved by increasing the copy number of LysE genes” is allegedly unclear and confusing. Following the suggestion of the examiner, this term is amended to “overexpression of said LysE gene is achieved by increasing the copy number of said gene”;
- In claim 28 the meaning of the term “aspartate kinase is resistant to inhibition and or threonine” is allegedly unclear. This term is amended to “aspartate kinase is resistant to inhibition by lysine and/or threonine”;

- In claims 27 and 30-32 the examiner alleges that the term “overexpressed” is relative as there is no standard for ascertaining the requisite degree. These claims are amended to explicitly indicate that “overexpressed” refers to a gene which is expressed at a level which is higher than its normal expression level in a wild-type *C glutamicum*.

Rejections under 35 U.S.C. §112, first paragraph –

Claims 27-28 and 30-32 were rejected under 35 U.S.C. §112, first paragraph, for allegedly failing to comply with the written description requirement and for allegedly lacking enablement. This rejection is rendered moot in view of the amendments to the claims and the applicants respectfully request its removal.

Claims 27-28 and 30-32 are amended to explicitly state that the genes are expressed at levels that are higher than their expression level in wild type *Corynebacterium glutamicum*, the overexpression of the *pyc* gene is achieved by increasing the copy number of the *pyc* gene, the overexpression of the *dapA* gene is achieved by using a *dapA* promoter selected from the group consisting of: the *dapA* promoter comprising the MC20 mutation as set forth in SEQ ID NO: 5 and the *dapA* promoter comprising the MA16 mutation as set forth in SEQ ID NO: 6, and the overexpression of the *lysE* gene is achieved by increasing the copy number of the *lysE* gene.

Rejections under 35 U.S.C. §103 –

Claims 30-32 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Peters-Wendisch *et al.* (DE 198-31-609) in view of Cremer *et al.* (EP-0-435-132), Vrljic *et al.* (DE 195-48-222), and Araki *et al.* (EP 0-854-189). This rejection is rendered moot in view of the amendments to the claims.

Claims 30-32 are amended to explicitly include SEQ ID NO: 5 and SEQ ID NO: 6. The applicants respectfully reiterate their earlier argument that the cited documents neither alone nor in combination teach or suggest the simultaneous enhancement of either the *pyc* and *dapA* and *lysE* or *pyc* and *dapA* and *lysC* and *lysE*, via use of the *dapA* promoter selected from the group consisting of: the *dapA* promoter comprising the MC20 mutation as set forth in SEQ ID NO:5 and the *dapA* promoter comprising the MA16 mutation as set forth in SEQ ID NO:6. Therefore, claims 30-32 are not unpatentable under 35 U.S.C. §103(a) over Peters-Wendisch *et al.* in view of Cremer *et al.*, Vrljic *et al.*, and Araki *et al.* and the applicants respectfully request removal of this rejection.

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The applicants respectfully submit that this application is in condition for allowance and request a timely notice to that effect. The applicants enclose an appendix with a clean copy of the claims as requested by the examiner. The examiner is invited to contact the undersigned should questions relating to patentability remain.

Respectfully submitted,
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